

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #15	CCRB Case #: 202305077	<input checked="" type="checkbox"/> Force <input checked="" type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input checked="" type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input type="checkbox"/> Injury
Incident Date(s) Monday, 05/08/2023 7:50 PM	Location of Incident: In the vicinity of East Houston Street and Lafayette Street	18 Mo. SOL 11/8/2024	Precinct: 09
Date/Time CV Reported Mon, 05/15/2023 12:33 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 05/15/2023 12:33 PM

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. DTS Frank Russo	07549	966319	CD OFF
3. DI Robert Gault	00000	921362	MTN PCT
4. DT1 Kaz Daughtry	21864	940052	CD OFF

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. INSP John Corbisiero	00000	885437	PBMS

Officer(s)	Allegation	Investigator Recommendation
A . DT1 Kaz Daughtry	Force: Detective Kaz Daughtry used physical force against § 87(2)(b)	
B . DI Robert Gault	Force: Captain Robert Gault used physical force against § 87(2)(b)	
C . An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	
D . An officer	Abuse: An officer threatened § 87(2)(b) with the use of force.	
E . DTS Frank Russo	Abuse: Detective Frank Russo improperly used his body-worn camera.	

Case Summary

On May 18, 2023, § 87(2)(b) filed this complaint with the CCRB via telephone on behalf of § 87(2)(b). § 87(2)(b) did not witness this incident herself.

§ 87(2)(b)

On May 8, 2023, § 87(2)(b) attended a vigil held at the intersection of Houston Street and Lafayette Street in Manhattan to commemorate Jordan Neely, who had been killed in the nearby Broadway-Lafayette subway station on May 1, 2023. There were a large number of civilians and police officers present, including Captain Robert Gault of the 10th Precinct, Inspector John Corbisiero of Patrol Borough Manhattan South, and Detective Frank Russo and Detective Kaz Daughtry of the Chief of the Department's Office.

When the protesters started broadcasting using a loudspeaker, officers arrested several of them. § 87(2)(b) initially observed these arrests. Det. Daughtry then threw § 87(2)(b) to the ground (**Allegation A: Force – Physical force**, § 87(2)(g)). Cpt. Gault then allegedly twisted § 87(2)(b)'s left ankle (**Allegation B: Force – Physical force**, § 87(2)(g)). Several officers surrounded § 87(2)(b). An officer told § 87(2)(b) “Put your fucking hands behind your back” (**Allegation C: Discourtesy – Word**, § 87(2)(g)). An officer also stated, “Taser, Taser, Taser, Taser” (**Allegation D: Abuse of Authority – Threat of force**, § 87(2)(g)). § 87(2)(b) was taken into custody and transported first to the 7th Precinct, and later to § 87(2)(b). Ins. Corbisiero later issued her a summons for § 87(2)(b) (Board Review #01).

The investigation also determined that Det. Russo failed to activate his body-worn camera (BWC) during the incident (**Allegation E: Abuse of Authority – Improper use of BWC**, § 87(2)(g)).

The investigation obtained BWC footage (Board Review #02), handheld TARU footage (Board Review #03), and cell phone footage (Board Review #04) for this incident.

Findings and Recommendations

Allegation (A) Force: Detective Kaz Daughtry used physical force against § 87(2)(b)

§ 87(2)(b) was interviewed by the CCRB on September 19, 2023. Ins. Corbisiero was interviewed by the CCRB on April 12, 2024. Det. Russo was interviewed by the CCRB on May 10, 2024. Cpt. Gault was interviewed by the CCRB on June 5, 2024. Since this incident, Det. Daughtry was promoted and currently serves as the NYPD's Deputy Commissioner of Operations, which is a civilian position. As such, the investigation did not interview him.

It is undisputed that on May 8, 2023, protesters held a vigil for Jordan Neely at the intersection of Houston Street and Lafayette Street. Numerous officers from various commands were also present. Several protesters were taken into custody over the course of the event, including § 87(2)(b).

§ 87(2)(b) stated that she attended the vigil and was using her phone to livestream the event on Instagram. She did not create a recording of the incident. § 87(2)(b) observed the other vigil attendees from a pedestrian median in the middle of Houston Street. From this position, she observed officers arrest several other protesters. While she stood on the median, an officer grabbed her from behind by her collar and threw her face-down onto the street. § 87(2)(b) had not

noticed the officer's approach until after he grabbed her collar. She denied feeling any officer make physical contact with her before the officer grabbed her from behind and slammed her onto the ground. § 87(2)(b) described this officer as a dark-skinned male in his mid-30s to early 40s. He was dressed in plainclothes but wearing an NYPD vest. The impact caused a laceration on § 87(2)(b)'s forehead. § 87(2)(b) could see several officers' legs positioned around her once she landed on the street, but she could not clearly see them because the blood from the laceration on her forehead covered her eyes. The same officer also placed his knee on the middle of her back and pressed downwards. Several officers placed § 87(2)(b) in handcuffs, then they lifted her to her feet and walked her to a nearby police vehicle. § 87(2)(b) was initially transported to the 7th Precinct. An ambulance then transported her to § 87(2)(b), where she received treatment for the injury to her forehead. There, an officer handed her a summons for § 87(2)(b). § 87(2)(b) noted that the summons was issued to her under her former name, § 87(2)(b). She denied having provided the officers with either her current or former name and did not know how the officers identified her.

§ 87(2)(b) filed a Notice of Claim regarding this incident (Board Review #05). In it, she stated that during the vigil, an officer ran towards her and slammed her face-down onto the ground, causing her to start bleeding. The officer then pinned § 87(2)(b) down by placing a knee on her back.

No medical treatment of prisoner reports or TRIs were found for § 87(2)(b) (Board Review #01).

Of the various recordings obtained from this incident, only two of them depicted § 87(2)(b)'s arrest. The first is Cpt. Gault's BWC recording (Board Review #06). At the start of the recording, Cpt. Gault and a large group of officers are standing in the street next to the protesters, who are gathered at a subway entrance at the southwest corner of the intersection. At 1:45 into the recording, officers approach the protesters and arrest several of them. At 3:40 into the recording, an individual wearing a black jacket, a black baseball cap, and a gray hooded sweatshirt approaches one of the individuals that the officers are handcuffing. The investigation identified this individual as § 87(2)(b). § 87(2)(b) then runs towards a median strip on Houston Street. There is a lamppost on the median. A white male officer in a white-shirted uniform (whose nameplate, visible later in the recording, identifies him as Ins. Corbisiero) and a black male officer wearing a white button-down shirt, a baseball cap, and an NYPD vest run after § 87(2)(b). Several civilians stand between § 87(2)(b), Ins. Corbisiero, the plainclothes officers, and Cpt. Gault, blocking his BWC's view of them. At 3:50 into the recording, Cpt. Gault moves around these civilians and approaches the median. The first plainclothes officer and another plainclothes officer (whose nameplate, also visible later in the recording, identifies him as Det. Russo) lean down over § 87(2)(b), who is now lying on her left side on the street next to the median. The video does not show how § 87(2)(b) came to be in this position. The first plainclothes officer and Det. Russo hold § 87(2)(b) down on ground. Cpt. Gault runs over to assist them. Det. Russo pulls § 87(2)(b)'s arms behind her back and places her in handcuffs. At 4:45 into the recording, § 87(2)(b) is seen to be bleeding from her forehead. Blood is visible around her eyes and nose. She is heard spelling out her name to another civilian standing nearby, stating, "§ 87(2)(b)." At 5:10 into the recording, she tells a bystander that her last name is § 87(2)(b).

The investigation also obtained a brief clip of cell phone footage recorded by an unknown bystander (Board Review #04). The footage was posted to Twitter on February 29, 2024, with a caption stating, "This was Deputy Commissioner Kaz Daughtry @NYPDDaughtry at a Jordan Neely Vigil where he smashed a peaceful protestors face in to the pavement on May 8, 2023. He has not been held accountable." The footage is two seconds long. It shows the plainclothes officer,

wearing the baseball cap, grab § 87(2)(b) by her shoulders and throw her face-down to the street next to the median. Ins. Corbisiero and Det. Russo are seen standing a few feet away.

Cpt. Gault, Ins. Corbisiero, and Det. Russo were all shown the portion of Cpt. Gault's BWC footage depicting the arrest. Cpt. Gault and Ins. Corbisiero stated that they did not recognize the plainclothes officer wearing the baseball cap. Det. Russo, however, identified him as Det. Daughtry. According to CTS, Det. Daughtry was assigned to the Chief of the Department's office along with Det. Russo at the time of this incident. § 87(2)(g)

As the same officer whom Det. Russo identified as Det. Daughtry in the BWC footage is seen throwing § 87(2)(b) to the ground in the cell phone video, the investigation identified Det. Daughtry as the subject officer.

According to his official biography on the NYPD website, Det. Daughtry was promoted to Assistant Commissioner in July of 2023 and Deputy Commissioner in February of 2024 (Board Review #07). Both of these are civilian positions within the NYPD. As such, Det. Daughtry is no longer a member of the service and is no longer subject to the CCRB's jurisdiction. § 87(2)(g)

Allegation (B) Force: Captain Robert Gault used physical force against § 87(2)(b)

§ 87(2)(b) stated that after Det. Daughtry threw her to the ground, another officer, whom she described as a short male in his 30s with glasses who was wearing a white-shirted uniform, grabbed her left ankle and twisted it, causing pain in the ankle.

Cpt. Gault stated that he first noticed § 87(2)(b) when Ins. Corbisiero and Det. Russo were struggling with her on the ground. He did not see how she came to be on the ground. Det. Russo was trying to bring her arms behind her back and place her in handcuffs. § 87(2)(b) started kicking her legs out. Cpt. Gault ran over and grabbed hold of one of § 87(2)(b)'s ankles to keep the leg still. He did not recall which ankle he held on to. He denied making any other contact with § 87(2)(b) besides holding her leg still.

Cpt. Gault's BWC footage (Board Review #06) shows that at 3:50 into the recording, Cpt. Gault runs over to where Det. Daughtry and Det. Russo are holding § 87(2)(b) on the ground. Cpt. Gault pushes § 87(2)(b) on her back. The three officers push § 87(2)(b) onto her front. § 87(2)(b) moves her left leg into a kneeling position. At 4:00 into the recording, Cpt. Gault grabs and holds § 87(2)(b)'s left ankle. § 87(2)(b) twists her leg and torso as Cpt. Gault holds her ankle still. Cpt. Gault is not shown twisting or moving § 87(2)(b)'s ankle into an unnatural position. Det. Russo then pulls § 87(2)(b)'s arms behind her back and handcuffs her. Numerous protesters surround the officers as they handcuff § 87(2)(b) with several standing within a few feet of her and the officers.

NYPD Patrol Guide procedure 221-01 (Board Review #08) states that officers may use physical force when it is reasonable to place a person in custody. All uses of force must be reasonable under their particular circumstances. Factors to consider when determining when a particular use of force is reasonable include:

- The nature and severity of the circumstances.
- Actions taken by the subject.
- Whether the subject is actively resisting custody.
- The presence of a hostile crowd or agitators.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (C) Discourtesy: An officer spoke discourteously to § 87(2)(b)

Allegation (D) Abuse of Authority: An officer threatened § 87(2)(b) with the use of force.

§ 87(2)(b) denied that any of the officers said anything to her either before Det. Daughtry tackled her or after she was on the ground. She did not mention any officers using profanity or threatening her with a Taser.

Cpt. Gault's BWC footage (Board Review #06) records as he and the other officers subdue and handcuff § 87(2)(b). At 3:50 into the recording, a voice states, "Put your hands behind your back. Put your fucking hands behind your back, right now." At 4:00 into the recording, a voice states, "Taser, Taser." Other voices are also shouting commands at this time, including ordering officers to handcuff § 87(2)(b). The recording does not clearly show who makes these remarks.

Cpt. Gault, Ins. Corbisiero, and Det. Russo all denied that they told § 87(2)(b) "Put your fucking hands behind your back." They did not recall hearing any officer use profanity towards § 87(2)(b). Cpt. Gault stated that he told the other officers around him to place § 87(2)(b) in handcuffs. He denied issuing any other commands. Ins. Corbisiero and Det. Russo did not recall if any of the officers issued any commands to § 87(2)(b) during the arrest. All of the officers denied stating, "Taser, Taser." They denied threatening to use force against § 87(2)(b) while handcuffing her. None of them recalled hearing any other officers make such threats.

All three officers were shown Cpt. Gault's BWC footage. When asked to identify the voices that stated, "Put your fucking hands behind your back," and "Taser, Taser," all three officers stated that they did not recognize either voice. They each denied that they made either statement themselves.

§ 87(2)(g)

Allegation (E) Abuse of Authority: Detective Frank Russo improperly used his body-worn camera.

It is undisputed that Det. Russo participated in § 87(2)(b)'s arrest. He did not make a BWC recording (Board Review #02). Det. Russo acknowledged that he was wearing his BWC at the time of the incident but that he did not activate it because he did not have time to do so before moving to

assist the other officers in handcuffing § 87(2)(b)

NYPD Patrol Guide procedure 212-123 (Board Review #09) states that officers are required to activate their BWC before engaging in any police action. “Police action” is defined as any law enforcement or investigative activity conducted in furtherance of official duties. Officers are expected to activate their BWC as soon as it is feasible and safe to do so after taking necessary action to preserve human health and safety when an unanticipated or exigent occurrence takes place. Officers are forbidden from indiscriminately recording political activities at protests and demonstrations. They are, however, still required to activate their BWCs during these events when any enforcement action is being taken.

§ 87(2)(g)

§ 87(2)(g)

Allegations Not Pleaded

- § 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to three other CCRB complaints (including two in which she provided her name as § 87(2)(b) and has been named as a victim in sixteen allegations (Board Review #10):
 - § 87(2)(b)
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- Det. Daughtry was a member of the service for 17 years and was a subject officer in 20 other CCRB complaints and 53 allegations, four of which were substantiated:
 - 200710793 involved substantiated allegations of gun pointed and threat of force. The Board recommended that he receive charges. The NYPD imposed a penalty of ten vacation days.

- 201906887 involved substantiated allegations of inaccurate official statement and misleading official statement. The Board recommended that he receive charges. The NYPD imposed a penalty of 20 vacation days.
 - § 87(2)(g)
- Cpt. Gault has been a member of the service for 25 years and has been a subject officer in four other CCRB complaints and nine allegations, none of which were substantiated. § 87(2)(g)
 - Det. Russo has been a member of the service for five years and has been a subject officer in five other CCRB complaints and ten allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming assault, excessive force, false arrest, false imprisonment, malicious prosecution and violations of civil and constitutional rights, and seeking unspecified damages (Board Review #05).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

RPBP History

- This complaint did not contain any allegations of Racial Profiling/Bias-Based Policing.

Squad No.: 15

Investigator:	Owen Godshall	SI Owen Godshall	08/02/2024
	Signature	Print Title & Name	Date

Squad Leader: Simon Wang IM Simon Wang 08/02/24
Signature Print Title & Name Date

Reviewer: _____

_____ Signature	_____ Print Title & Name	_____ Date
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